

Carolyn Beasley Burton (SBN 184753)

THE MILLS LAW FIRM

880 Las Gallinas Avenue, Ste. 2

San Rafael, CA 94931

Telephone: (415) 455-1326

Fax: (415) 455-1327

Robert J. Bonsignore (BBO # 547880)

BONSIGNORE & BREWER

23 Forest Street

Medford, MA 02155

Telephone: (781) 391-9400

Fax: (781) 391-9496

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

**IN RE: WAL-MART WAGE AND HOUR
EMPLOYMENT PRACTICES
LITIGATION**

MDL 1735

**Docket No. 2:06-CV-00225-PMP-PAL
(BASE FILE)**

**THIS DOCUMENT RELATES TO ALL
CASES EXCEPT
KING v. WAL-MART STORES, INC.,
CASE NO. 07-1486-WY**

JOINT STIPULATION AND [PROPOSED] ORDER

INTRODUCTION AND BACKGROUND

As the Court was recently advised by Co-Lead Counsel Carolyn Beasley Burton, on August 10, 2010, the Ninth Circuit Court of Appeals granted Plaintiff's Motion for Summary Affirmance of this Court's November 2, 2009, order and final judgment approving the settlement in MDL 1735. (9th Cir. Case No. 09-17648, Dkt Entry 47.) In the wake of this ruling and other initiatives being pursued by Co-Lead Counsel, the Objectors¹ have expressed a willingness to dismiss all of their appeals in exchange for forgiveness of the \$40,000 in sanctions that was ordered by the Court on May 25, 2010 (Dkt No. 641), and is currently on appeal (9th Cir. Case No. 10-16391).

WHEREAS, in the interest of consummating the settlement and resolving all disputes with the Objectors, Co-Lead Counsel stipulates to this settlement and requests that the Court approve this compromise;

WHEREAS, the Objectors have filed five appeals of rulings by this Court: Case No. 10-16391 challenges the Court's order imposing sanctions against the Objectors, and is still active; Case No. 10-15516 challenges this Court's Order requiring the Objectors to post appeal bonds (Dkt No. 613), and remains active; Case Nos. 09-17648, 09-17682, 09-17683 (consolidated as Case No. 09-17648) challenge the Court's Orders of November 2 and November 20, 2009 finally approving the settlement and awarding attorneys' fees. Although the Court of Appeals granted Plaintiff's Motion for Summary Affirmance, the Objectors filed a Petition on August 16, 2010, seeking Panel Rehearing or Rehearing *En Banc*, and is still active (9th Cir. Case No. 09-17648, Dkt Entry 48);

WHEREAS, Class Counsel has determined that the burden of pursuing the additional appellate and District Court litigation necessary to recover the sanctions would far exceed the value of the

¹ Stephanie Swift, Fatima Andrews, Jessica Gaona, and Deborah Maddox, represented by John J. Pentz, Christopher A. Bandas, Edward W. Cochran, Edward F. Siegel, Lisa A. Rasmussen.

sanctions. In addition, the anticipated loss in terms of the value of the use of the settlement proceeds, which are now available for distribution, exceeds the value of the sanctions;

WHEREAS, the class members have waited many years to receive the compensation provided by this litigation and settlement;

WHEREAS, Class Counsel believe that it is in the best interests of the Class to resolve all appeals now and to clear the way for consummation of the settlement;

WHEREFORE,, in light of these factors, Plaintiffs, by and through their undersigned Co-Lead Counsel in these proceedings, and the Objectors, by and through their Counsel, hereby stipulate and agree as follows, and request that the District Court so Order.

1. Plaintiffs agree to, and hereby do, respectfully request that this Court vacate the Order of May 25, 2010 (Dkt. No. 641, reconsideration denied on July 8, 2010) requiring the Objectors to pay sanctions totaling \$40,000 into the Plaintiffs' Settlement Fund, and Plaintiffs agree to forego further litigation related to the sanctions Order, in exchange for the Objectors' agreement to drop all appeals of this case and to refrain from pursuing any other appeals, or motions in regard to MDL 1735, as set forth below.

2. In consideration of this agreement and corresponding Order of this Court, the Objectors agree to immediately dismiss all pending appeals, and withdraw all pending motions, with prejudice. Specifically, the Objectors agree to dismiss or withdraw the following appeals/motions with prejudice (1) the Objectors' Petition for Panel Rehearing or for Rehearing *En Banc* in regard to the Summary Affirmance that was granted on August 10, 2010, in the three consolidated appeals of the approval of the settlement and award of attorneys' fees (9th Cir. Case 09-17648, Dkt Entry 48); Objectors' appeal of the Order of March 8, 2010 requiring the Objectors to post appeal bonds pursuant to Fed. R. App. P.

7 (9th Cir. Case 10-15516); Objectors' appeal of the sanctions Order of May 25, 2010 (9th Cir. Case 10-16391).

3. The Objectors further agree not to file any further appeals in regard to MDL 1735 or in any of the above cited appellate cases, and not to undertake, directly or indirectly, any action which would interfere, delay, or obstruct the consummation of the settlement of MDL 1735. In consideration thereof, Plaintiffs agree not to take any further action against the Objectors and or their counsel in regard to MDL 1735 or in any of the above cited appellate cases.

IT IS SO STIPULATED.

Dated: August 25, 2010

THE MILLS LAW FIRM

/s/ Carolyn Beasley Burton
Carolyn Beasley Burton

880 Las Gallinas Avenue, Suite 2
San Rafael, CA 94903

BONSIGNORE & BREWER

/s/ Robert J. Bonsignore
Robert J. Bonsignore

23 Forest Street
Medford, MA 02155

LAW OFFICES OF LISA A. RASMUSSEN

/s/ Lisa A. Rasmussen
Lisa A. Rasmussen

616 South Eighth Street
Las Vegas, NV 89101

CLASS ACTION FAIRNESS GROUP

/s/ John Jacob Pentz, III
John Jacob Pentz, III,

Suite 260G
2 Clock Tower Place
Maynard, MA 1754

LAW OFFICE OF EDWARD SIEGEL

/s/ Edward F. Siegel
Edward F. Siegel

Suite 340
27600 Chagrin Blvd.
Cleveland, OH 44122

BANDAS LAW FIRM, P.C.

/s/ Christopher Andres Bandas
Christopher Andres Bandas

BANDAS LAW FIRM, P.C.
Ste. 1020
500 N. Shoreline
Corpus Christi, TX 78471

EDWARD WILLARD COCHRAN

/s/ Edward W. Cochran
Edward W. Cochran

20030 Marchmont Rd.
Shaker Heights, OH 44122

IT IS SO ORDERED.

Dated: August ____, 2010

By: _____

PHILIP M. PRO
Chief United States District Judge